HOUSE BILL No. 1229

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.5; IC 6-9-34.

Synopsis: Union County CAGIT and innkeeper's tax. Authorizes Union County to impose an additional county adjusted gross income tax (CAGIT) rate of 0.25% for a period of five years. Authorizes Union County to impose an innkeeper's tax. Requires the additional CAGIT revenue to be used for renovations to the county courthouse. Provides that, before January 1, 2007, the innkeeper's tax must be used for renovations to the county courthouse. Provides that, after December 31, 2006, the innkeeper's tax must be used for the promotion of conventions, visitors, and tourism.

Effective: Upon passage.

Hoffman, Bodiker

January 10, 2002, read first time and referred to Committee on Ways and Means.

Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1229

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.5-1.1-2, AS AMENDED BY P.L.135-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The county council of any county in which the county option income tax will not be in effect on July 1 of a year under an ordinance adopted during a previous calendar year may impose the county adjusted gross income tax on the adjusted gross income of county taxpayers of its county effective July 1 of that year.

(b) Except as provided in section 2.5, 2.7, ~~or~~ 3.5, **or 3.6** of this chapter, the county adjusted gross income tax may be imposed at a rate of one-half of one percent (0.5%), three-fourths of one percent (0.75%), or one percent (1%) on the adjusted gross income of resident county taxpayers of the county. Any county imposing the county adjusted gross income tax must impose the tax on the nonresident county taxpayers at a rate of one-fourth of one percent (0.25%) on their adjusted gross income. If the county council elects to decrease the county adjusted gross income tax, the county council may decrease the county adjusted gross income tax rate in increments of one-tenth of one percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The ________ County Council imposes the county adjusted gross income tax on the county taxpayers of ________ County. The county adjusted gross income tax is imposed at a rate of _____ percent (_____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect July 1 of this year.".

(d) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(f) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in this chapter.

SECTION 2. IC 6-3.5-1.1-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.6. (a) This section applies only to a county having a population of more than six thousand (6,000) but less than eight thousand (8,000).**

(b) The county council of a county described in subsection (a) may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to fund the renovation of the county courthouse.

(c) Notwithstanding section 2 of this chapter, if the county council adopts an ordinance under subsection (b), the county council may impose the county adjusted gross income tax at a rate of one and twenty-five hundredths percent (1.25%) on adjusted gross income. However, a county may impose the county adjusted gross income tax at a rate of one and twenty-five hundredths

percent (1.25%) for only five (5) years. After the county has imposed the county adjusted gross income tax at a rate of one and twenty-five hundredths percent (1.25%) for five (5) years, the rate is reduced to one percent (1%). If the county council imposes the county adjusted gross income tax at a rate of one and twenty-five hundredths percent (1.25%), the county council may decrease the rate or rescind the tax in the manner provided under this chapter.

(d) If a county imposes the county adjusted gross income tax at a rate of one and twenty-five hundredths percent (1.25%) under this section, the revenue derived from a tax rate of twenty-five hundredths percent (0.25%) on adjusted gross income:

(1) shall be paid to the county treasurer;

(2) may be used only to pay the costs of renovating the county courthouse; and

(3) may not be considered by the department of local government finance commissioners under any provision of IC 6-1.1-18.5, including the determination of the county's maximum permissible property tax levy.

(e) Notwithstanding section 3 of this chapter, the county council may adopt an ordinance under this section before June 1.

SECTION 3. IC 6-3.5-1.1-10, AS AMENDED BY P.L.135-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) One-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.

(b) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of construction, improvement, or renovation of a jail under section 2.7 of this chapter; ~~or~~

(3) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; **or**

(4) revenue that must be used to pay the costs of renovating a county courthouse under section 3.6(d) of this chapter;

distributions made to a county treasurer under subsection (a) shall be treated as though they were property taxes that were due and payable during that same calendar year. The certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

(c) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 4. IC 6-3.5-1.1-11, AS AMENDED BY P.L.135-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of construction, improvement, or renovation of a jail under section 2.7 of this chapter; ~~or~~

(3) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; **or**

(4) revenue that must be used to pay the costs of renovating a county courthouse under section 3.6(d) of this chapter;

the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 2 of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received. The percentages are set forth in the following table:

COUNTY ADJUSTED GROSS INCOME TAX RATE	PROPERTY TAX REPLACEMENT CREDITS	CERTIFIED SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 5. IC 6-3.5-7-5, AS AMENDED BY P.L.135-2001, SECTION 6, AS AMENDED BY P.L.185-2001, SECTION 3, AND AS AMENDED BY P.L.291-2001, SECTION 179, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), ~~and~~ (g), ~~*(j),*~~ ~~and~~ *(k),* **and (l),** the county economic development income tax may be imposed at a rate of:

(1) one-tenth percent (0.1%);
(2) two-tenths percent (0.2%);
(3) twenty-five hundredths percent (0.25%);
(4) three-tenths percent (0.3%);
(5) thirty-five hundredths percent (0.35%);
(6) four-tenths percent (0.4%);
(7) forty-five hundredths percent (0.45%); or
(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), ~~or~~ *(j),* ~~or~~ *(k),* **or (l)** the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The ________ County ________ imposes the county economic development income tax on the county taxpayers of ________ County. The county economic development income tax is imposed at a rate of ________ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year.".

(e) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600). In addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than thirty-seven thousand (37,000) but less than thirty-seven thousand eight hundred (37,800), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than sixty-eight thousand (68,000) but less than seventy-three thousand (73,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not

exceed one and five-tenths percent (1.5%).

~~*(j) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):*~~

~~*(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and*~~

~~*(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);*~~

~~*if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.*~~

(k) This subsection applies to a county having a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand three hundred (27,300). In addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax at a rate of one and twenty-five hundredths percent (1.25%) under IC 6-3.5-1.1-3.6.

SECTION 6. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 34. Union County Innkeeper's Tax

Sec. 1. This chapter applies to a county having a population of more than six thousand (6,000) but less than eight thousand (8,000).

Sec. 2. As used in this chapter, "executive" has the meaning set forth in IC 36-1-2-5.

Sec. 3. As used in this chapter, "fiscal body" has the meaning set

forth in IC 36-1-2-6.

Sec. 4. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.

Sec. 5. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 6. (a) The fiscal body of the county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any rooms, lodgings, or accommodations in any:

(1) hotel;
(2) motel;
(3) boat motel;
(4) inn;
(5) college or university memorial union;
(6) college or university residence hall or dormitory; or
(7) tourist cabin;

located in the county.

(b) The tax does not apply to gross income received in a transaction in which:

(1) a student rents lodgings in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in the county; or
(2) a person rents a room, lodgings, or accommodations for a period of thirty (30) days or more.

(c) The tax may not exceed the rate of six percent (6%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(d) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If the ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If the ordinance is not adopted, the tax shall be imposed, paid, and collected in the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(e) The provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration apply to the imposition and administration of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is

paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(f) If the tax is paid to the department of state revenue, the amounts received from the tax imposed under this section shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 7. (a) This section applies before January 1, 2007.

(b) If a tax is levied under section 6 of this chapter, the county treasurer shall deposit in the county general fund all amounts that the county treasurer receives under section 6 of this chapter. The money deposited under this section must be used to pay the costs of renovating the county courthouse.

Sec. 8. (a) This section applies to taxes levied under section 6 of this chapter after December 31, 2006.

(b) The county treasurer shall establish a convention, visitor, and tourism promotion fund. The county treasurer shall deposit in this fund all amounts that the county treasurer receives under section 6 of this chapter after December 31, 2006.

(c) If a commission is established under section 9 of this chapter, the county auditor shall issue a warrant directing the county treasurer to transfer money from the convention, visitor, and tourism promotion fund to the commission's treasurer if the commission submits a written request for the transfer.

(d) Money in a convention, visitor, and tourism promotion fund, or money transferred from the fund under subsection (c), may be expended only to promote and encourage conventions, visitors, and tourism within the county. Expenditures under this subsection may include expenditures for advertising, promotional activities, trade shows, special events, and recreation.

Sec. 9. (a) If a tax is levied under section 6 of this chapter after December 31, 2006, the county executive shall create a commission to promote the development and growth of the convention, visitor, and tourism industry in the county. If two (2) or more adjoining counties desire to establish a joint commission, the counties shall enter into an agreement under IC 36-1-7.

(b) The county executive shall determine the number of members, which must be an odd number, to be appointed to the commission. A simple majority of the members must be:

(1) engaged in a convention, visitor, or tourism business; or

(2) involved in or promoting conventions, visitors, or tourism. If available and willing to serve, at least two (2) of the members must be engaged in the business of renting or furnishing rooms, lodgings, or accommodations as described in section 6 of this chapter. Not more than one (1) member may be affiliated with the same business entity. Not more than a simple majority of the members may be affiliated with the same political party. Each member must reside in the county. The county executive shall determine who will make the appointments to the commission. The executive of the largest municipality in the county shall appoint a number of the members of the commission. The number appointed by the executive shall be in the same ratio to the total size of the commission (rounded off to the nearest whole number) that the population of the largest municipality bears to the total population of the county.

(c) If a municipality other than the largest municipality in the county collects fifty percent (50%) or more of the tax revenue collected under this chapter during the three (3) month period following imposition of the tax, the executive of the municipality shall appoint the same number of members to the commission that the executive of the largest municipality in the county appoints under subsection (b).

(d) Except as provided in subsection (c), all terms of office of commission members begin on January 1. Initial appointments must be for staggered terms, with subsequent appointments for two (2) year terms. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an initial appointment is not made by February 1 or a vacancy is not filled within thirty (30) days, the commission shall appoint a member by majority vote.

(e) A member of the commission may be removed for cause by the appointing authority.

(f) Members of the commission may not receive a salary. However, commission members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(g) Each commission member, before beginning the member's duties, shall take an oath of office in the usual form, to be endorsed upon the member's certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(h) The commission shall meet after January 1 each year for the

purpose of organization. The commission shall elect one (1) of its members president, another vice president, another secretary, and another treasurer. The members elected to those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve from the date of their election until their successors are elected and qualified. A majority of the commission constitutes a quorum, and the concurrence of a majority of the commission is necessary to authorize any action.

Sec. 10. (a) The commission may:

(1) accept and use gifts, grants, and contributions from any public or private source under terms and conditions that the commission considers necessary and desirable;

(2) sue and be sued;

(3) enter into contracts and agreements;

(4) make rules necessary for the conduct of its business and the accomplishment of its purposes;

(5) receive and approve, alter, or reject requests and proposals for funding by corporations qualified under subdivision (6);

(6) after its approval of a proposal, transfer money, quarterly or less frequently, from the fund established under section 8(b) of this chapter, or from money transferred from that fund to the commission's treasurer under section 8(c) of this chapter, to any Indiana nonprofit corporation to promote and encourage conventions, visitors, or tourism in the county; and

(7) require financial or other reports from any corporation that receives funds under this chapter.

(b) All expenses of the commission shall be paid from the fund established under section 8(b) of this chapter or from money transferred from that fund to the commission's treasurer under section 8(c) of this chapter. The commission shall annually prepare a budget, taking into consideration the recommendations made by a corporation qualified under subsection (a)(6) and submit it to the county fiscal body for its review and approval. An expenditure may not be made under this chapter unless it is in accordance with an appropriation made by the county fiscal body in the manner provided by law.

Sec. 11. All money coming into possession of the commission shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money coming into possession of the commission is subject to audit and supervision by the state board

of accounts.

Sec. 12. (a) A member of the commission who knowingly:

(1) approves the transfer of money to any person or corporation not qualified under law for that transfer; or

(2) approves a transfer for a purpose not permitted under law;

commits a Class D felony.

(b) A person who receives a transfer of money under this chapter and knowingly uses that money for any purpose not permitted under this chapter commits a Class D felony.

SECTION 7. **An emergency is declared for this act.**